



Eibling 7-1-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): E.E. Eibling et al.
Case: 7-1-2
Serial No.: 09/385,725
Filing Date: August 30, 1999
Group: 2684
Examiner: Pablo N. Tran

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature: James M. Hanks Date: April 15, 2003

Title: Aggregate Power Measurement

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REPLY BRIEF

Technology Center 2600

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated January 15, 2003 in the above-referenced application.

ARGUMENT

The Examiner in his Answer to the Appeal Brief filed by Applicants on October 3, 2002, reasserts his argument that each and every one of claims 1-22 is anticipated by U.S. Patent No. 5,715,526 (hereinafter "Weaver"). Applicants respectfully disagree with the assertions presented by the Examiner in the Answer, for the reasons identified below.

Applicants initially note that MPEP §2131 specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.

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Cir. 1989). Applicants respectfully submit that the Examiner has failed to establish anticipation of claims 1-22 by Weaver.

In their Appeal Brief, Applicants argued with regard to independent claims 1 and 8 that Weaver fails to disclose determining the power level of a forward-link signal for a measurement interval having a duration smaller than or equal to the time period in which at least one power-indicative signal characteristic can change. The Examiner in the Answer refers to column 9, lines 29-44 and column 10, lines 23-29 of Weaver as being allegedly anticipatory of this limitation. However, these cited portions of Weaver fail to teach or suggest the particular limitation in question. The statement in column 9, lines 29-44 to the effect that data rate of a traffic channel can change “on a frame by frame basis” does not teach or suggest the claimed power level determination, since the mere fact that the data rate and power level of a particular traffic channel can change over a given interval does not mean that forward-link signal power level is actually being determined over a measurement interval having the same duration as the given interval. Similarly, the indication in this portion of Weaver that the traffic channel data rate “directly affects the amount of power contributed . . . to the overall desired power” does not teach or suggest the claimed forward-link signal power level determination. Instead, these teachings from Weaver simply recognize the fact that the power level of a particular traffic channel varies depending on the data rate, which fails to meet the above-noted limitation of claims 1 and 8.

Moreover, the “filtered expected power” referred to in column 9, lines 29-35 of Weaver is clearly not determined on a frame by frame basis, that is, for a measurement interval comprising a single frame. Instead, it is determined based on samples taken over multiple frames, as indicated in column 10, line 61 to column 11, line 2. This multiple-frame aspect of the Weaver power level determinations is also readily apparent from the teachings in column 11, lines 37-51, as previously cited by Applicants in their Appeal Brief.

In summary, Weaver does not determine the power level of a forward-link signal for a measurement interval having a duration smaller than or equal to the time period in which at least one power-indicative signal characteristic can change, e.g., a measurement interval having a duration less than or equal to the duration of a single frame. Instead, Weaver determines the power level of the forward-link signal only for measurement intervals comprising multiple frames. Conventional

arrangements of this type are described in Applicants' specification, for example, at page 5, lines 10-13. Claims 1 and 8 are therefore not anticipated by Weaver.

With regard to dependent claims 2 and 9, these claims specify that the measurement interval has a duration smaller than or equal to the time period in which any of the power-indicative signal characteristics can change. The portions of the Weaver reference cited by the Examiner in the Answer show power level determination only over measurement intervals comprising multiple frames, as was described in greater detail above. Claims 2 and 9 are therefore not anticipated by Weaver.

With regard to dependent claims 5 and 14, these claims specify that the power-indicative signal characteristics comprise whether the information contained in the signal is control information. The Examiner in the Answer argues that this limitation is met by teachings in column 9, lines 29-44 and column 10, lines 28-29 of Weaver to the effect that samples can be measured from traffic channels, pilot channels, paging channels and synchronization channels. However, these teachings fail to meet the particular limitation in question, in that they fail to teach or suggest that a determination that a signal contains control information may itself be used as a power-indicative signal characteristic as claimed.

With regard to dependent claims 6 and 15, these claims specify that the power-indicative signal characteristics comprise whether the call is in set up. The Examiner in the Answer cites column 15, lines 29-32 and 44-62 of Weaver as being anticipatory of this limitation. However, these teachings simply describe handoff between base stations. There is no suggestion in the cited passages to the effect that a determination that a call is in set up may itself be used as a power-indicative signal characteristic as claimed.

With regard to dependent claims 7 and 16, these claims specify that the power-indicative signal characteristics comprise whether the call is in soft-handoff. The Examiner in the Answer again cites to column 15, lines 29-32 and 44-62 of Weaver as being anticipatory of this limitation. However, the cited passages fail to provide any teaching or suggestion to the effect that a determination that a call is in soft-handoff may itself be used as a power-indicative signal characteristic as claimed.

With regard to dependent claim 21, this claim specifies that the measurement interval comprises a frame. However, the portions of Weaver cited by the Examiner as teaching this limitation, such as column 10, lines 22-25, in fact teach multiple-frame measurement intervals, as was described in greater detail above.

With regard to dependent claim 22, this claim specifies that the measurement interval comprises a power control group. Applicants have described such an arrangement in their specification at, for example, page 9, lines 23-29. The Examiner in the Answer argues that the limitation is met by column 9, lines 38-43 of Weaver, but Weaver provides no specific teaching or suggestion that the claimed measurement interval may be a power control group, e.g., 1/16 of a frame. The cited portion of Weaver relied on by the Examiner simply notes that “the data rate on a Traffic Channel directly affects the amount of power contributed by the channel element to the overall desired power in that an eighth rate frame is transmitted at 1/8 the power of a corresponding full rate frame.” Applicants note that this type of conventional arrangement is described in their specification at page 4, line 27 to page 5, line 9. However, this is not what is claimed. What is claimed is a power determination measurement interval that corresponds to a power control group, e.g., 1/16 of a frame. As indicated previously, Weaver teaches multiple-frame measurement intervals for forward-link power level determination.

Applicants therefore respectfully submit that the arrangements of Weaver relied on by the Examiner in the §102(b) rejection and in his Answer determine forward-link power level only for measurement intervals comprising multiple frames, and are thus of a conventional type similar to that described by Applicants at page 4, line 20 to page 5, line 20, of their specification. As a result, it is expected that the Weaver arrangements will suffer from the corresponding problems described by Applicants at page 5, line 21 to page 6, line 7 of their specification. The present invention as set forth in claims 1-22 advantageously overcomes these problems of Weaver and other conventional arrangements, as is indicated at page 6, lines 10-28 of the specification.

For the reasons identified above and in their previously-filed Appeal Brief, Applicants respectfully submit that the §102(b) rejection is improper and should be withdrawn.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is written in a cursive style with a large, looping initial "J".

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